



south dakota
DEPARTMENT OF EDUCATION
Learning. Leadership. Service.

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February 25, 2010

Dear Assistant Secretary Meléndez:

I am writing to request a waiver of the definition of “persistently lowest-achieving schools” contained in section I.A.3 of the final requirements for the School Improvement Grants (SIG) program (74 FR 65618 (Dec. 10, 2009)) and the use of that definition in section I.A.1(a) and (b) of those final requirements, as amended (75 FR 3375 (Dec. 21, 2010)). Specifically, I am requesting permission for South Dakota to exclude, from the pool of schools from which it identifies the persistently lowest-achieving schools for Tier I and Tier II, any school in which the total number of students in the “all students” group in the grades assessed who were enrolled in the school for a full academic year is less than ten. This minimum “n” is consistent with the state’s accountability workbook for the 2009-10 school year. Identification of schools with less than ten students tested is concerning from two perspectives. First, the low number of ten is needed, at a minimum, to protect the confidentiality of the students involved. Small communities can identify these students as low performing. Secondly, any number tested below ten is subject to question in terms of validity. Identification must be based on sufficient test scores to ensure the accuracy of identification. In sum, South Dakota needs this waiver in order to ensure that the identification of a school is both valid and reliable based on a minimum number of students and does not reveal personally identifiable information about individual students in the school.

I believe that this waiver will ensure the validity and reliability of South Dakota’s identification of schools as well as protect the privacy of individual students in very small schools. For South Dakota’s identified Tier I and Tier II schools, the SIG program will improve the quality of instruction for students and improve the academic achievement of students. Specifically, implementing one of the four school intervention models in our Tier I and Tier II schools will help us turn around our State’s persistently lowest-achieving schools in order to improve instruction and raise student achievement substantially in those schools. By identifying schools below the “minimum n” as Tier III schools, South Dakota will enable its LEAs to serve, as appropriate, these schools with SIG funds.

South Dakota assures that it determined whether it needs to identify five percent of schools or five schools in each tier prior to excluding small schools below its “minimum n.” South Dakota is enclosing, and will post on its Web site, a list of the schools in each tier that it will exclude under this waiver and the number of students in each school on which that determination is based. South Dakota will include its “minimum n” in its definition of “persistently lowest-achieving schools.” In addition, South Dakota will include, in its list of Tier III schools, any schools excluded from the pool of schools from which it identified the persistently lowest-achieving schools, so that LEAs may choose to serve those schools with SIG funds consistent with the final requirements.

South Dakota assures that it provided all LEAs in the State that are eligible to receive a SIG grant with notice and a reasonable opportunity to comment on this request and has attached a copy of that notice. To expedite its waiver request, South Dakota will submit subsequently copies of any comments it receives from LEAs. South Dakota also assures that it provided notice and information regarding this waiver request to the public. South Dakota has also provided notice and information regarding this waiver request to the public in the manner in which the State customarily provides such notice and information to the public by posting information regarding the waiver request on its Stimulus Web site (<http://doe.sd.gov/stimulus/Title1waiver.asp>). Comments will continue to be accepted during the time period in which the SEA and ED communicate about the state’s application and will be compiled as a final comment document prior to ED approval of the state’s application.

Please feel free to contact Diane Lowery by phone or email at 605-773-6509 or diane.lowery@state.sd.us if you have any questions regarding this request. Thank you for your consideration.

Sincerely,

Thomas J. Oster
Secretary
South Dakota Department of Education